

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 175 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMESHBHAI MANISHANKER DAVE

Versus

RAJENDRA VINODRAI KAMDAR

Appearance:

MR SB BRAHMBHATT for Petitioners

MR YOGESH S LAKHANI for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 19/04/99

ORAL JUDGEMENT

Admit. By consent of parties, the appeal is taken up for immediate hearing.

The appellants are the original defendants. They have filed this appeal against the order dated 25.2.1999 made by the learned 6th Joint Civil Judge (S.D.), Rajkot below the respondent's application (Exh.56) in Special Civil Suit No.143 of 1996. The learned trial Judge has

allowed the said application and has restrained the appellants from selling or transferring the suit property during the pendency of the suit for specific performance filed by the respondent and restraining them from interfering with the plaintiff's possession and enjoyment of the property and further restraining them from preventing the plaintiff from making construction on the suit land.

The learned Counsel for the appellants submitted that there was no objection to the injunction restraining them from transferring or selling the suit land during the pendency of the suit, but the plaintiff should not be permitted to put up any further construction on the suit land. The learned Counsel for the respondent states that the respondent-plaintiff does not intend to put up any further construction beyond that which has already been made till now and he will not part with possession of the suit land during the pendency of the suit. In the circumstances, the order passed by the learned trial Judge is modified and it is clarified that the plaintiff shall not put up any further construction on the suit land and he shall also not part with possession of the property.

The order of the learned trial Judge is confirmed subject to the modification as above and the appeal is accordingly disposed of. No order as to costs.
